

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 85559-001

v

Mega Life and Health Insurance Company
Respondent

Issued and entered
this 3rd day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On October 11, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on October 17, 2007.

The Commissioner notified Mega Life and Health Insurance Company (Mega) of the external review and requested the information used in making its adverse determination. Information from Mega was received on October 16 and 18, 2007.

The case presented a medical question so the Commissioner assigned it to an independent review organization (IRO) which provided its analysis to the Commissioner on October 31, 2007.

II

FACTUAL BACKGROUND

The Petitioner has a one (1) year, non-renewable term injury and sickness Student Insurance plan through XXXXX that was effective August 15, 2006. He sought treatment from his

primary care physician in early 2007 for umbilical drainage. He was referred to a surgeon when he did not improve and was treated with antibiotics prior to surgical exploration of the umbilicus. Claims for the treatment and surgery were submitted and Mega denied coverage stating the services were for a congenital condition.

The Petitioner appealed. Mega reviewed the claim but upheld its denial. A final adverse determination was issued July 18, 2007.

III ISSUE

Is Mega correct in denying coverage for the Petitioner's umbilical treatment and surgery?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that he had a foul discharge from his umbilical area for several months and sought treatment. He was referred to a surgeon and underwent treatment and surgery for chronic umbilical infection with possible urachal sinus. The Petitioner says his claims for the services were denied by Mega as congenital conditions are not covered.

The Petitioner argues that he did not have a pre-existing or congenital condition. His surgeon supports this argument. Petitioner believes Mega should be responsible for the claims for the treatment and surgery.

Mega Life and Health Insurance Company's Argument

Mega asserts that its denial for coverage of the Petitioner's treatment of chronic umbilical infection was correct. The Petitioner's certificate of insurance (Certificate) excludes coverage for treatments which are for congenital conditions. The relevant Certificate provisions state:

Exclusions and Limitations

No benefits will be paid for: a) loss or expense caused by, contributed to, or resulting from; or b) treatment, services or supplies for, at or related to:

* * *

7. Congenital conditions, except as specifically provided for

Newborn or adopted Infants;

The Petitioner's file was reviewed by a medical consultant for Mega. They stated that information from the medical records indicate the surgeon excised what appeared to be an urachal cyst which must be considered of congenital origin. Mega concluded that under the terms and limitations of the Petitioner's certificate, benefits are not available for the treatment of congenital conditions.

Commissioner's Review

The Commissioner has carefully reviewed the arguments of both parties as well as the documentation and certificate of coverage. In reviewing adverse determinations that involve medical issues or clinical review criteria, the Commissioner requests an analysis from an IRO. The IRO expert reviewing this case is certified by the American Board of Surgery; is an associate fellow of the American College of Surgeons; is a member of the American Institute of Healthcare Quality; is published in peer reviewed medical literature and is in active practice.

The reviewer noted the Petitioner had an umbilical infection for several months. When treatment by his primary care physician did not work he was treated by Dr. XXXXX with oral and topical antibiotics which allowed the chronic infection to drain and thus resolve. The reviewer further states it was appropriate to follow-up the initial treatment with surgical exploration. Neither an urachus sinus nor umbilical cyst was present during the procedure. The reviewer says the Petitioner's chronic umbilical infection had nothing to do with the urachus, a structure that runs between the bladder and umbilicus and normally obliterates during development. The reviewer determined that the Petitioner's treatment and surgical services on July 19, 2007 were not for a congenital condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that

judgment should be rejected in the present case. Therefore, the Commissioner accepts the findings of the IRO reviewer and finds that the Petitioner's treatment and surgery was not for a congenital condition.

**V
ORDER**

The Commissioner reverses Mega Life and Health Insurance Company's adverse determination of September 14, 2007. The company is required to provide coverage for the Petitioner's treatment and surgery within sixty days of the date of this order and to provide the Commissioner with proof of such coverage within seven days after coverage has been provided.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.